

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>IN RE:</b>	{	<b>CHAPTER 13</b>
	{	
<b>JORGE JESUS VALLEJOS,</b>	{	
<b>DORA BERNARDITA CABRERA,</b>	{	<b>CASE NO.: A17-55484-WLH</b>
	{	
	{	
<b>DEBTORS.</b>	{	
	{	

**TRUSTEE’S MOTION TO HOLD FUNDS IN ESCROW**

COMES NOW Nancy J. Whaley, the Standing Chapter 13 Trustee, in the above-styled case, and files this Motion to Hold Funds in Escrow. In support of the motion, the Trustee shows the Court the following:

1.

The Debtors filed for relief under Chapter 13 of Title 11 on March 27, 2017. The Debtors’ Chapter 13 Plan was confirmed by Order of the Court on August 3, 2017 and provides for a current monthly payment of \$960.00 and currently provides a percentage repayment of general unsecured creditors that total \$119,619.14.<sup>1</sup>

2.

On February 25, 2021 a Suggestion of Death was filed on behalf of Jorge Jesus Vallejos (“Debtor-Husband”) indicating he had passed away on January 1, 2021.

3.

On February 26, 2021, the Trustee was notified by Debtors’ counsel that Ms. Dora Bernardita Cabrera (“Debtor-Wife”) was entitled to life insurance proceeds of \$150,000.00 as a result of her

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<sup>1</sup> The Trustee cannot provide an exact figure because the Debtors’ plan specifies the Debtor-Wife must submit her annual bonus income to the Trustee and the figure is a fluctuating amount. The Debtor-Wife also has failed to submit her bonus income from 2020 and the matter remains a point of contention to be resolved. For the sake of consideration of the Court, it appears the plan will pay approximately 40-50% of the Debtors’ unsecured debts based upon the Debtor-Wife’s current and past bonus income.

husband's death. As of the filing of this motion, the proceeds have not been disclosed in the Debtor-Wife's Schedules.

4.

Pursuant to 11 U.S.C. §1306(a), "property of the estate includes, in addition to the property specified in section 541 of this title – (1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted..." As of the date of this motion, the Debtors' case has neither closed, dismissed, or converted.

5.

It is the Trustee's contention that these funds constitute property of the estate and considering the significant sum, it is a reasonable consideration of all interested parties that the funds will be significantly depleted before the issue as to how they are to be disbursed is heard and determined by the Court.

6.

The Trustee seeks to afford both herself and the Debtor-Wife the opportunity to conference and potentially negotiate the resolution of the funds before the final matters of disbursement are determined by the Court. The Trustee has not had the opportunity to full discuss the facts and situation of the Debtor-Wife with Debtors' counsel.

7.

In order to facilitate good-faith negotiations, it is imperative that the funds remain fully available until further Order of this Court. The Trustee is unaware as to whether the funds have already been released to the Debtor-Wife and if any of the proceeds have already been exhausted.

WHEREFORE, based upon the forgoing, the Trustee respectfully request the Court require the Debtor to hold the full funds in an escrow account pending further Order of the Court. The Trustee also offers to hold the funds in trust until further Order of the Court if the Court would prefer the Trustee holds the funds, or for such further relief the Court deems just and proper.

Respectfully submitted,

/s/ \_\_\_\_\_  
Ryan J. Williams  
Attorney for Chapter 13 Trustee  
GA Bar No. 940874  
303 Peachtree Center Ave., NE  
Suite 120  
Atlanta, GA 30303  
(678) 992-1201

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IN RE:	:	CHAPTER 13
	:	
JORGE JESUS VALLEJOS	:	CASE NUMBER A17-55484-WLH
DORA BERNARDITA CABRERA	:	
<u>DEBTORS</u>	:	
	:	
NANCY J. WHALEY, TRUSTEE	:	
MOVANT	:	
VS.	:	
JORGE JESUS VALLEJOS	:	
DORA BERNARDITA CABRERA	:	
<u>RESPONDENTS</u>	:	

**NOTICE OF HEARING ON TRUSTEE'S MOTION TO HOLD FUNDS IN ESCROW**

PLEASE TAKE NOTICE that Nancy J. Whaley has filed a Motion to Hold Funds in Escrow with the Court.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Trustee's Motion in *Courtroom 1403, United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia at 10:20 a.m., Wednesday, April 14, 2021.*

Given the current public health crisis, hearings may be telephonic only. Please check the "[Important Information Regarding Court Operations During COVID-19 Outbreak](#)" tab at the top of the GANB Website prior to the hearing for instructions on whether to appear in person or by phone.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in their bankruptcy case. (If you do not have any attorney, you may wish to consult with one). If you do not want the Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or

your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including address) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing.

The address of the Clerk's Office is **Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303**. You must also mail a copy of your response to the undersigned at the address stated below.

THIS THE 9<sup>th</sup> day of March, 2021.

Respectfully submitted,

/s/  
\_\_\_\_\_  
Ryan J. Williams,  
Attorney for Chapter 13 Trustee  
GA Bar No. 940874  
303 Peachtree Center Ave., NE  
Suite 120  
Atlanta, GA 30303  
(678) 992-1201

/jn

**CERTIFICATE OF SERVICE**

Case No: A17-55484-WLH

I certify that on this day I caused a copy of this Chapter 13 Trustee's Motion to Hold Funds in Escrow to be served via United States First Class Mail with adequate postage prepaid on the following parties at the address shown for each:

JORGE JESUS VALLEJOS  
DORA BERNARDITA CABRERA  
2243 BEDSTONE DR  
BUFORD, GA 30518

OFFICE OF THE U.S. TRUSTEE  
ATTN: JENEANE TREACE  
ATTN: DAVID WEIDENBAUM  
75 TED TURNER DRIVE, S.W.  
SUITE 362  
ATLANTA, GA 30303

I further certify that I have on this day electronically filed the foregoing Chapter 13 Trustee's Motion to Hold Funds in Escrow using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

**Attorney for the Debtor(s):**

SLIPAKOFF & SLOMKA, PC

This the 9th day of March, 2021.

/s/ \_\_\_\_\_  
Ryan J. Williams  
Attorney for the Chapter 13 Trustee  
State Bar No. 940874  
303 Peachtree Center Avenue, NE  
Suite 120  
Atlanta, GA 30303  
678-992-1201